

AMENDED IN SENATE JUNE 22, 2010

AMENDED IN SENATE JUNE 3, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2358

Introduced by Assembly Member De Leon

February 19, 2010

An act to amend Sections 12061 and 12318 of the Penal Code, relating to ammunition.

LEGISLATIVE COUNSEL'S DIGEST

AB 2358, as amended, De Leon. Ammunition.

Existing law provides that commencing February 1, 2011, a vendor shall not sell or otherwise transfer ownership of any handgun ammunition without, at the time of delivery, legibly recording specified information regarding the purchaser or transferee, and maintaining the record for a period of not less than 5 years, as specified. Existing law provides that violation of these provisions is a misdemeanor. Existing law also provides that the records shall be subject to inspection by any peace officer and certain others, as specified, for purposes of an investigation where access to those records is or may be relevant to that investigation, when seeking information about persons prohibited from owning a firearm or ammunition, or when engaged in ensuring compliance with laws pertaining to firearms or ammunition, as specified.

This bill would require the information described above in connection with the transfer of handgun ammunition be legibly or electronically recorded. The bill would provide that commencing February 1, 2011, except for investigatory and enforcement purposes described above, no ammunition vendor shall provide the required information to any 3rd

party without the written consent of the purchaser or transferee. The bill would also provide that records may be copied for investigatory or enforcement purposes by any person authorized to inspect those records, as specified, and that copies shall be transmitted to local law enforcement if required by local law. The bill would also provide that any required ammunition records that are no longer required to be maintained shall be destroyed in a manner that protects the privacy of the purchaser or transferee who is the subject of the record. The bill would provide that violation of these provisions is a misdemeanor.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The bill would require ammunition vendors, commencing February 1, 2011, to provide written notice to the local police chief, or if the vendor is in an unincorporated area, to the county sheriff, of the vendor's intent to conduct business in the jurisdiction, and to obtain any regulatory or business license required by the jurisdiction for ammunition sellers.

Existing law provides that commencing February 1, 2011, the delivery or transfer of ownership of handgun ammunition may only occur in a face-to-face transaction with the deliverer or transferor being provided bona fide evidence of identity from the purchaser or other transferee.

This bill would also provide that handgun ammunition may be purchased over the Internet or through other means of remote ordering if a handgun ammunition vendor in California initially receives the ammunition and processes the transfer, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12061 of the Penal Code is amended to
- 2 read:
- 3 12061. (a) A vendor shall comply with all of the following
- 4 conditions, requirements and prohibitions:

1 (1) A vendor shall not permit any employee who the vendor
2 knows or reasonably should know is a person described in Section
3 12021 or 12021.1 of this code or Section 8100 or 8103 of the
4 Welfare and Institutions Code to handle, sell, or deliver handgun
5 ammunition in the course and scope of his or her employment.

6 (2) A vendor shall not sell or otherwise transfer ownership of,
7 offer for sale or otherwise offer to transfer ownership of, or display
8 for sale or display for transfer of ownership of any handgun
9 ammunition in a manner that allows that ammunition to be
10 accessible to a purchaser or transferee without the assistance of
11 the vendor or employee thereof.

12 (3) Commencing February 1, 2011, a vendor shall not sell or
13 otherwise transfer ownership of any handgun ammunition without,
14 at the time of delivery, legibly or electronically recording the
15 following information:

16 (A) The date of the sale or other transaction.

17 (B) The purchaser's or transferee's driver's license or other
18 identification number and the state in which it was issued.

19 (C) The brand, type, and amount of ammunition sold or
20 otherwise transferred.

21 (D) The purchaser's or transferee's signature.

22 (E) The name of the salesperson who processed the sale or other
23 transaction.

24 (F) The right thumbprint of the purchaser or transferee on the
25 above form.

26 (G) The purchaser's or transferee's full residential address and
27 telephone number.

28 (H) The purchaser's or transferee's date of birth.

29 (4) Commencing February 1, 2011, the records required by this
30 section shall be maintained on the premises of the vendor for a
31 period of not less than five years from the date of the recorded
32 ~~transfer. Copies of these records shall be transmitted to the county~~
33 ~~sheriff or chief of police if required by local law. Commencing~~
34 ~~transfer. Commencing~~ February 1, 2011, except for the purposes
35 set forth in paragraph (5), no vendor shall provide the information
36 specified in paragraph (3) to any third party without the written
37 consent of the purchaser or transferee. Any records required by
38 this section that are no longer required to be maintained shall be
39 destroyed in a manner that protects the privacy of the purchaser
40 or transferee who is the subject of the record.

(5) Commencing February 1, 2011, the records referred to in paragraph (3) shall be subject to inspection at any time during normal business hours by any peace officer employed by a sheriff, city police department, or district attorney as provided in subdivision (a) of Section 830.1, or employed by the department as provided in subdivision (b) of Section 830.1, provided the officer is conducting an investigation where access to those records is or may be relevant to that investigation, is seeking information about persons prohibited from owning a firearm or ammunition, or is engaged in ensuring compliance with the Dangerous Weapons Control Law (Chapter 1 (commencing with Section 12000) of Title 2 of Part 4), or any other laws pertaining to firearms or ammunition. The records shall also be subject to inspection at any time during normal business hours by any other employee of the department, provided that employee is conducting an investigation where access to those records is or may be relevant to that investigation, is seeking information about persons prohibited from owning a firearm or ammunition, or is engaged in ensuring compliance with the Dangerous Weapons Control Law (Chapter 1 (commencing with Section 12000) of Title 2 of Part 4), or any other laws pertaining to firearms or ammunition. Records may be copied for investigatory or enforcement purposes by any person authorized to inspect those records pursuant to this subdivision.

(6) Commencing February 1, 2011, the vendor shall not knowingly make a false entry in, fail to make a required entry in, fail to obtain the required thumbprint, or otherwise fail to maintain in the required manner records prepared in accordance with paragraph (2). If the right thumbprint is not available, then the vendor shall have the purchaser or transferee use his or her left thumb, or any available finger, and shall so indicate on the form. If the purchaser or transferee is physically unable to provide a thumbprint or fingerprint, the vendor shall so indicate on the form.

(7) Commencing February 1, 2011, no vendor shall refuse to permit a person authorized under paragraph (5) to examine any record prepared in accordance with this section during any inspection conducted pursuant to this section, or refuse to permit the use of any record or information by those persons.

(8) Commencing February 1, 2011, a vendor shall provide written notice to the local police chief, or if the vendor is in an unincorporated area, to the county sheriff, of the vendor's intent

1 to conduct business in the jurisdiction, and shall obtain any
2 regulatory or business license required by the jurisdiction for
3 ammunition sellers. *Copies of the ammunition sales records*
4 *required by this section shall be transmitted to the county sheriff*
5 *or chief of police if required by local law.*

6 (b) Paragraph (3) of subdivision (a) shall not apply to or affect
7 sales or other transfers of ownership of handgun ammunition by
8 handgun ammunition vendors to any of the following, if properly
9 identified:

10 (1) A person licensed pursuant to Section 12071.

11 (2) A handgun ammunition vendor.

12 (3) A person who is on the centralized list maintained by the
13 department pursuant to Section 12083.

14 (4) A target facility which holds a business or regulatory license.

15 (5) Gunsmiths.

16 (6) Wholesalers.

17 (7) Manufacturers or importers of firearms licensed pursuant
18 to Chapter 44 (commencing with Section 921) of Title 18 of the
19 United States Code, and the regulations issued pursuant thereto.

20 (8) Sales or other transfers of ownership made to authorized
21 law enforcement representatives of cities, counties, cities and
22 counties, or state or federal governments for exclusive use by those
23 government agencies if, prior to the delivery, transfer, or sale of
24 handgun ammunition, written authorization from the head of the
25 agency authorizing the transaction is presented to the person from
26 whom the purchase, delivery, or transfer is being made. Proper
27 written authorization is defined as verifiable written certification
28 from the head of the agency by which the purchaser, transferee,
29 or person otherwise acquiring ownership is employed, identifying
30 the employee as an individual authorized to conduct the transaction,
31 and authorizing the transaction for the exclusive use of the agency
32 by which he or she is employed.

33 (c) (1) A violation of paragraph (3), (4), (6), or (7) of
34 subdivision (a) is a misdemeanor.

35 (2) The provisions of this subdivision are cumulative, and shall
36 not be construed as restricting the application of any other law.
37 However, an act or omission punishable in different ways by
38 different provisions of law shall not be punished under more than
39 one provision.

40 SEC. 2. Section 12318 of the Penal Code is amended to read:

1 12318. (a) Commencing February 1, 2011, the delivery or
2 transfer of ownership of handgun ammunition may only occur in
3 a face-to-face transaction with the deliverer or transferor being
4 provided bona fide evidence of identity from the purchaser or other
5 transferee, provided, however, that handgun ammunition may be
6 purchased over the Internet or through other means of remote
7 ordering if a handgun ammunition vendor in California initially
8 receives the ammunition and processes the transfer in compliance
9 with this section and Section 12061. A violation of this section is
10 a misdemeanor.

11 (b) For purposes of this section:

12 (1) “Bona fide evidence of identity” means a document issued
13 by a federal, state, county, or municipal government, or subdivision
14 or agency thereof, including, but not limited to, a motor vehicle
15 operator’s license, state identification card, identification card
16 issued to a member of the Armed Forces, or other form of
17 identification that bears the name, date of birth, description, and
18 picture of the person.

19 (2) “Handgun ammunition” means handgun ammunition as
20 defined in subdivision (a) of Section 12323, but excluding
21 ammunition designed and intended to be used in an “antique
22 firearm” as defined in Section 921(a)(16) of Title 18 of the United
23 States Code. Handgun ammunition does not include blanks.

24 (3) “Handgun ammunition vendor” has the same meaning as
25 set forth in Section 12060.

26 (c) Subdivision (a) shall not apply to or affect the deliveries,
27 transfers, or sales of, handgun ammunition to any of the following:

28 (1) Authorized law enforcement representatives of cities,
29 counties, cities and counties, or state and federal governments for
30 exclusive use by those government agencies if, prior to the delivery,
31 transfer, or sale of the handgun ammunition, written authorization
32 from the head of the agency employing the purchaser or transferee,
33 is obtained identifying the employee as an individual authorized
34 to conduct the transaction, and authorizing the transaction for the
35 exclusive use of the agency employing the individual.

36 (2) Sworn peace officers, as defined in Chapter 4.5 (commencing
37 with Section 830) of Title 3 of Part 2 who are authorized to carry
38 a firearm in the course and scope of their duties.

39 (3) Importers and manufacturers of handgun ammunition or
40 firearms licensed to engage in business pursuant to Chapter 44

1 (commencing with Section 921) of Title 18 of the United States
2 Code and the regulations issued pursuant thereto.

3 (4) Persons who are on the centralized list maintained by the
4 Department of Justice pursuant to Section 12083.

5 (5) Persons whose licensed premises are outside this state who
6 are licensed as dealers or collectors of firearms pursuant to Chapter
7 44 (commencing with Section 921) of Title 18 of the United States
8 Code and the regulations issued pursuant thereto.

9 (6) Persons licensed as collectors of firearms pursuant to Chapter
10 44 (commencing with Section 921) of Title 18 of the United States
11 Code and the regulations issued pursuant thereto whose licensed
12 premises are within this state who has a current certificate of
13 eligibility issued to him or her by the Department of Justice
14 pursuant to Section 12071.

15 (7) A handgun ammunition vendor.

16 (8) A consultant-evaluator, as defined in subdivision (s) of
17 Section 12001.

18 SEC. 3. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.